

135431

6/23/86

P.R. Mallory

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIN THE MATTER OF:
P.R. MALLORY COMPANY
CRAWFORDSVILLE, INDIANARESPONDENTSDURACELL INTERNATIONAL, INC.
TERRA PRODUCTS, INC.

DOCKET NO. V-W- '86-C-009

ADMINISTRATIVE ORDER
PURSUANT TO SECTION 106
OF THE COMPREHENSIVE
ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY
ACT OF 1980PREAMBLE

The following Administrative Order is issued on this date to Duracell International, Inc., former site owner and operator, and to Terra Products, Inc., current site owner, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a), and delegated to the U.S. Environmental Protection Agency (EPA) by Executive Order No. 12316, August 26, 1981, 46 Federal Register 42237, and redelegated to the Regional Administrator by Delegation 14-14 issued April 1, 1983. Notice of issuance of this Order has been given to the State of Indiana.

This Administrative Order requires the Respondents, and each of them, to undertake emergency removal activities at the P.R. Mallory Site located in Crawfordsville, Indiana, to abate an imminent and substantial endangerment arising from the potential exposure to hazardous substances by humans and animals, the threat of release of hazardous substances to the environment, and the presence of high levels of hazardous substances at or near the land surface that may migrate.

DETERMINATIONS AND FINDINGS

1. The P.R. Mallory Site (hereinafter the "Facility") is a "Facility" as that term is defined in Section 101(a) of CERCLA, 42 U.S.C. §9601(a). The Facility is located on the north side

of State Road 32, near the center of Section 35, Township 19 North, Range 4 West of Montgomery County, approximately 2 miles east of Crawfordsville, Indiana. The surrounding rural area includes some mixed industrial and residential property. A stream flows along the north boundary of the property. This stream is a tributary to Sugar Creek which is a recreational stream. Access to the Facility is not restricted.

2. The P.R. Mallory Company manufactured dielectric capacitors at the Facility from 1957 to 1969. The dielectric fluids are believed to have contained high concentrations of polychlorinated biphenyls (PCBs). In addition, an incinerator was operated at the facility to burn waste oil which is also believed to have contained PCBs. In 1969, a fire destroyed the plant. The company apparently abandoned the operation after the fire.

3. A hazardous substance, as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14) has been deposited, stored, placed or otherwise located at the Facility. The hazardous substance detected at the facility is polychlorinated biphenyls (PCBs).

4. On April 16, 1986, the Indiana Department of Environmental Management (IDEM) requested that EPA investigate and initiate a removal action at the facility. This request was based on observations by IDEM representatives that capacitors appeared to be buried in a ravine near the stream as well as dumped on the ground surface. Local residents had observed oil sheens on the water flowing past the Facility. IDEM representatives sampled oil from the capacitors. The results indicated that the concentration of PCBs in the oil is as high as 50 percent.

5. On April 19, 1986, a representative of EPA conducted a site assessment. During this assessment, five soil samples and one stream sediment sample were taken (sample locations are shown in Figure 1). The results of this sampling and analysis are shown in Attachment 1. The results indicate PCB concentrations in the soil from 326 parts per million (ppm) up to 165,402 ppm (or 16.5 percent) with an average concentration of 91,560 ppm. The sediment sample exhibited a PCB concentration of 9,695 ppm. An estimated lifetime cancer risk for human health of 10^{-5} corresponds to a criterion concentration of .79 ng/l (parts per trillion) for the ingestion of contaminated water and contaminated aquatic organisms.

6. Duracell International, Inc., and Terra Products, Inc., are "Owners and Operators" as these terms are defined in Section 101(20) of CERCLA, 42 U.S.C. §9601(20), of the Facility.

7. Since the time the P.R. Mallory Company owned and operated the Facility, the company has been purchased by Dart and Kraft, Inc., and the name changed to Duracell International, Inc.

Terra Products, Inc., currently owns the facility.

8. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

9. EPA has determined that each Respondent may, pursuant to Section 107 of CERCLA, 42 U.S.C. §9607, be liable for all costs incurred by the Government for the emergency removal action required by this Administrative Order, should the Respondents fail to properly perform the emergency removal action and the Government be obliged to undertake such removal action itself.

10. EPA has determined that the past, present and/or potential migration of a hazardous substance at or from the Facility constitutes an actual and/or threatened "release" into the environment as that term is defined in Section 106(a) of CERCLA, 42 U.S.C. §9606(a). EPA has determined that conditions at the Facility meet several of the factors set forth in 40 CFR 300.65 (b)(2) for removal actions.

The factors met are:

- (i) Actual or potential exposure to hazardous substances or pollutants or contaminants by nearby populations, animals or food chains;
- (iii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;
- (iv) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; and
- (v) Weather conditions that may cause hazardous substances or pollutants to migrate or be released.

11. The PCB concentrations detected in the soil and sediment are extremely high concentrations that, combined with unrestricted Facility access, allow for the potential exposure and subsequent harm to the public health, welfare or the environment. The harm consists of potential toxic effects to the reproductive system, the liver and the skin. PCBs are also a suspected human carcinogen. In addition, PCBs are extremely persistent in the environment and can bioaccumulate in animal tissue and, subsequently, the food chain.

12. Dioxin and dibenzofuran compounds can also be present in trace amounts in PCB mixtures; and when PCBs are heated or burned,

significant amounts of dibenzofurans and dioxins may be created. Dibenzofurans and dioxins may have been created at the facility during the fire that destroyed the plant or during the incineration of waste oil containing PCBs, which reportedly occurred at the Facility. Dioxins and dibenzofuran compounds are substantially more toxic than PCBs.

13. PCBs will continue to migrate from the Facility as exposed and buried capacitors continue to deteriorate and release the PCB oil to the environment. PCB oil or precipitation runoff contaminated with PCBs may discharge to the nearby stream. Once in the stream the PCBs will continue to migrate, posing a potential threat to any downstream populations. The dominant migration mechanism for PCB transport will be the stream sediment as PCBs preferentially partition to organic material that is a part of the sediment or soil.

ORDER

Based on the foregoing Determination and Findings, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606, it is hereby ordered that the following actions be undertaken at and near the Facility:

1. Respondents shall restrict access to potentially contaminated area of the Facility and the nearby stream. The area tentatively identified as requiring fencing is indicated in Figure 1. The exact area to be fenced shall be approved by EPA. This area may later be revised after the contamination assessment required in paragraph 3 below. Access shall be restricted by erecting a 6-foot barbed wire, chain-link fence.

This task shall be completed within three (3) calendar days of the effective date of this Administrative Order.

2. Respondents shall submit to EPA for approval a Work Plan for the action ordered in paragraphs 3 through 6 below. This Work Plan shall provide a concise description of the technical approach, a site health and safety plan, a sampling and analysis plan and a performance schedule for the ordered actions. The site health and safety plan shall include provisions for air monitoring during the excavation activities.

This task shall be completed within seven (7) calendar days of the effective date of this Administrative Order.

3. Respondents shall perform a contamination assessment of the Facility and the nearby stream. The sampling locations shall be set forth in the Work Plan and approved by EPA. All samples shall be analyzed for PCBs. A minimum of 10 percent of these samples shall also be analyzed for dioxins and dibenzofurans.

Compositing of samples may be performed in order to target specific areas for further analysis. The analysis for PCBs shall be completed within ten (10) calendar days of EPA's approval of the Work Plan required in paragraph 2.

The analysis for dioxins and dibenzofurans shall be completed within forty-five (45) calendar days of EPA's approval of the Work Plan required in paragraph 2.

4. Based upon the results of the PCB analysis required in paragraph 3, Respondents shall extend the fenced area described in paragraph 1 to restrict access to areas of the Facility subsequently found to be contaminated. Any such extension shall be approved by EPA.

This task shall be completed within five (5) calendar days of the receipt of PCB analyses.

5. Respondents shall collect all capacitors on the ground surface, excavate all capacitors in the ravine embankment, excavate all contaminated soil, and excavate all contaminated stream sediments. The contaminated soil and stream sediment shall include all soil and sediments contaminated above background. The excavated area shall then be backfilled with clean fill to restore the area to its pre-excavation elevation and to promote surface run-off.

The capacitors shall be placed into drums and staged within the restricted area. Precautions shall be taken to prevent contaminants from being released to the ground surface in the event a drum or capacitor is ruptured.

The contaminated soil shall be stored on an impermeable material, which may include the existing concrete building foundation, and covered to prevent precipitation from infiltrating, to prevent the migration of contaminants beneath the storage area, and to prevent windblown dispersion of PCB contaminated dust.

The contaminated sediment shall first be dewatered and then stored in the manner described above for contaminated soil. Water generated during the dewatering process shall be treated in accordance with applicable Federal and State standards, prior to discharge. Proper storage facilities for the water shall be utilized to insure that treatment level is obtained.

This task shall be completed within thirty (30) calendar days of EPA's approval of the Work Plan required in paragraph 2.

Respondents shall submit to EPA for approval a plan for the ultimate disposition of capacitors, contaminated soils and contaminated sediments. This plan shall be submitted within fifty (50) calendar days of EPA's approval of the Work Plan required in paragraph 2. The disposition plan shall take into

consideration the results of the dioxin analyses. After the ultimate disposition of the wastes is approved by EPA, Respondents shall undertake and complete the necessary action within twenty (20) calendar days of such approval.

6. Respondents shall submit a report summarizing the actions taken to comply with this Administrative Order. This report shall contain, among other things, identification of the site, a chronology and description of the actions, identification of problems encountered and how the problems were resolved, a listing of quantities and types of materials removed and their ultimate disposition, a presentation of the analytical results of all sampling and analysis performed and recommendations for any needed additional actions.

An interim report shall be submitted within ten (10) calendar days after the staging of the capacitors, contaminated soils, and contaminated sediments required in paragraph 5.

A final report shall be submitted within ten (10) calendar days of the ultimate disposition of the waste materials.

7. All materials removed from the facility and the stream shall be disposed of or treated in accordance with Sections 3002, 3003 and 3004 of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §6922, §6923 and §6924, the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., and all other applicable Federal, State and local requirements.

8. The Work Plan required by paragraph 2 of this section shall be reviewed and approved, in part or in whole, or modified by EPA. Respondents shall implement the Work Plan as approved or modified. EPA's modifications shall not be inconsistent with the purposes of this Administrative Order, or with the National Contingency Plan (NCP), 40 CFR Part 300.

9. All instructions by authorized EPA representatives, including, but not limited to, the OSC, consistent with the terms of this Administrative Order, or with the NCP, 40 CFR part 300, shall be binding upon the Respondents.

10. Respondents shall provide access to the Facility to EPA employees, contractors, agents and consultants, as well as to representatives of the Indiana Department of Environmental Management (IDEM), and shall permit such persons to be present and move freely in the area in order to conduct inspections, take samples, and to conduct other activities which the OSC determines to be necessary.

11. Nothing contained herein shall be construed to prevent EPA from seeking legal or equitable relief to enforce the terms of this Administrative Order, or from taking other legal or

equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. §9601, et seq., or any other applicable law.

12. The provisions of this Administrative Order shall be binding on employees, agents, successors, and assigns of the Respondents.

13. This Administrative Order shall be effective on the seventh (7th) calendar day following issuance unless a conference is requested, in which case this Administrative Order shall be effective on the third (3rd) calendar day following the day of the conference unless modified by the Regional Administrator.

14. On or before the effective date of this Administrative Order, Respondents shall provide notice in writing to EPA stating their intention to comply with the terms hereof. In the event any Respondent fails to provide such notice, said Respondents shall be deemed not to have complied with the terms of this Administrative Order.

15. All notices and reports submitted under terms of this Administrative Order shall be sent by certified mail, return receipt requested, and addressed to the following:

one copy	Marc M. Radell Assistant Regional Counsel U.S. EPA, Region V (5CS-16) 230 S. Dearborn Street Chicago, Illinois 60604
one copy	David Favero Environmental Specialist U.S. EPA, Region V (5HE-12) 230 S. Dearborn Street Chicago, Illinois 60604
one copy	William Simes On Scene Coordinator U.S. EPA, Region V (5HR-11) 230 S. Dearborn Street Chicago, Illinois 60604

ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting the above Determinations and Findings is available for review on weekdays between the hours of 8:30 a.m. and 5:00 p.m. in the Office of Regional

Counsel, 16th Floor, U.S. Environmental Protection Agency - Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Please contact Mr. Radell, Assistant Regional Counsel, at (312) 886-7948, for review of the Administrative Record. A listing of the Administrative Record is included in this Administrative Order as Attachment 2.

OPPORTUNITY TO CONFER

With respect to the actions required above, you may within four (4) calendar days after issuance of this Administrative Order, request a conference with EPA to discuss this Administrative Order and its applicability to you.

Any such conference shall be held within three (3) calendar days from the date of request. At any conference held pursuant to your request, you may appear in person and by an attorney or other representative. If you desire such a conference, please contact Mr. Radell at (312) 886-7948.

Any comments which you may have regarding this Administrative Order, its applicability to you, the correctness of any determinations or findings of fact upon which this Administrative Order is based, the appropriateness of any action which you are ordered to take, or any other relevant and material issue must be reduced to writing and submitted to EPA within three (3) calendar days following the conference, or if no conference is requested, within seven (7) calendar days following the issuance of this Administrative Order. Any such writing should be directed to Mr. Radell at the address cited above.

You are hereby placed on notice that EPA will take any action which may be necessary in the opinion of EPA for the protection of public health, welfare or the environment, and Respondents may be liable under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for the costs of those Government actions.

PENALTIES FOR NONCOMPLIANCE

Respondents are advised that, pursuant to Section 106(b) of CERCLA, 42 U.S.C. §9606(b), willful violation or subsequent failure or refusal to comply with this Administrative Order, or any portion thereof, may subject each Respondent to a civil penalty of not more than \$5,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Administrative Order, or any portion thereof, without sufficient cause may also subject Respondents to liability, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3) for punitive damages in an amount three times the

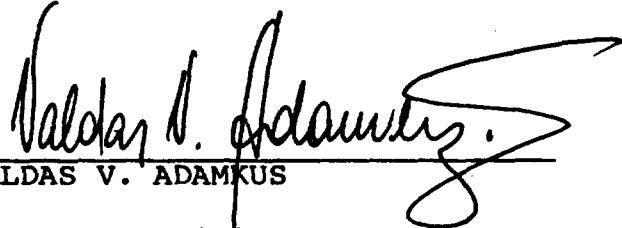
amount of any cost incurred by the Government as a result of each Respondent's failure to take proper action.

COOPERATION AMONG RESPONDENTS

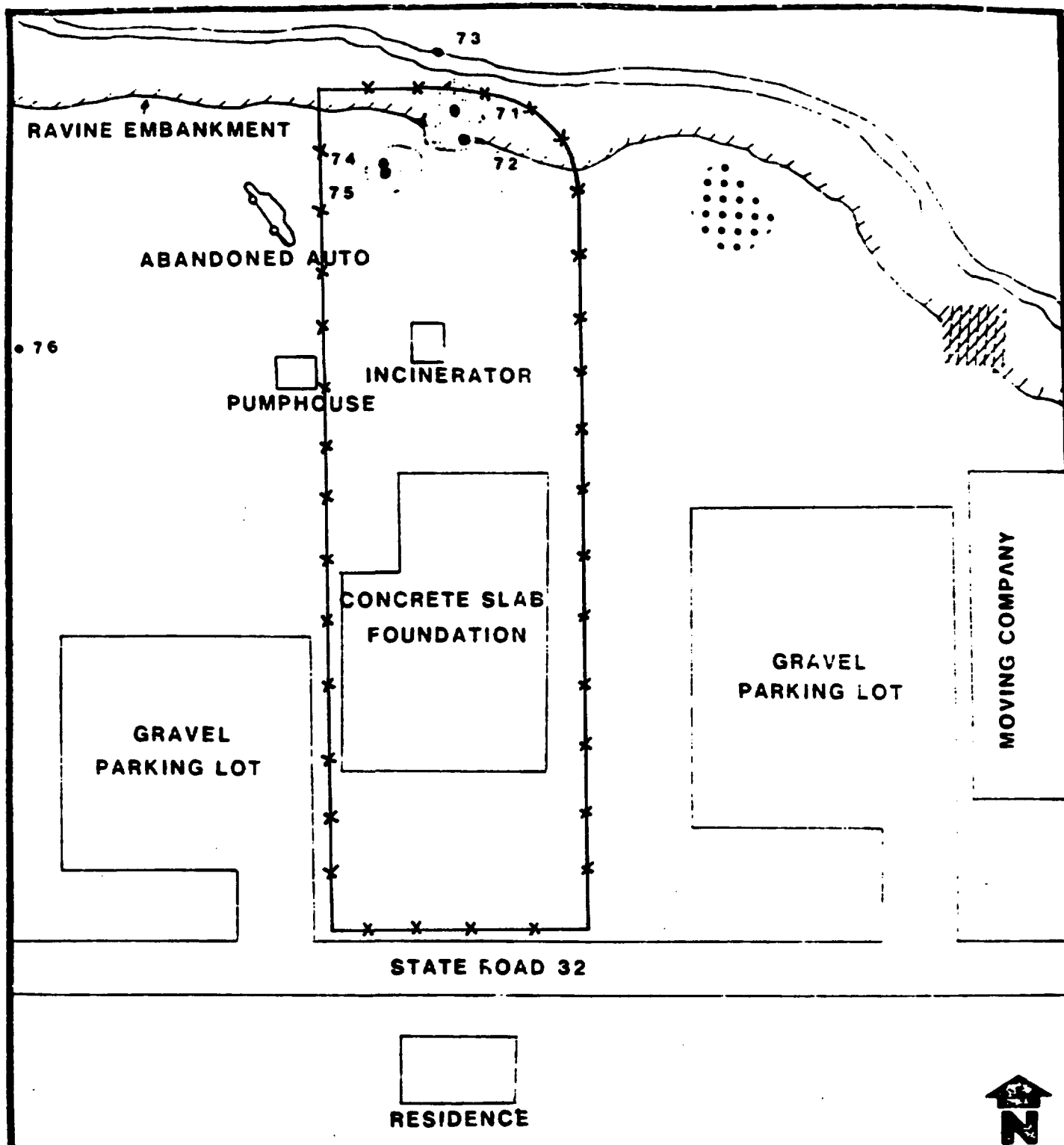
In order to facilitate communication and cooperation among Respondents, a list of the Respondents, their addresses and telephone numbers (if known) are included in this Administrative Order as Attachment 3.

Witness by my hand in the City of Chicago,
State of Illinois, on this 23 day
of June, 1986.

by:


VALDAS V. ADAMKUS

Regional Administrator
United States Environmental
Protection Agency - Region V



LEGEND

CAPACITORS



SCRAP STEEL



5 GAL PAILS

x-x Proposed Fence

SAMPLE LOCATION MAP

P.R. MALLORY

CRAWFORDSVILLE, INDIANA

FIGURE I

ATTACHMENT 1

RESULTS OF PCB SAMPLING AT
P.R. MALLORY COMPANY, CRAWFORDSVILLE, INDIANA*
(Concentration in ppm.)

<u>Station</u>	<u>Location</u>	<u>Results</u>
S-71	Soil - approximately 15 feet down the embankment among capacotor pile	65,498
S-72	Soil - approximately 5 feet down the embankment among capacitor pile	140,253
S-73	Stream sediment - directly below the capacotir pile	9,695
S-74	Soil - among capacitors approximately 20 feet south of the embankment	165,402
S-75	Soil - among capacitors approximately 20 feet south of the embankment	86,324
S-76	Soil - control sample taken approximately 150 feet into the field adjacent to the site	

* Samples analyzed by Suburban Laboratories

ATTACHMENT 2

INDEX TO THE ADMINISTRATIVE RECORD
P.R. MALLORY COMPANY SITE
CRAWFORDSVILLE, INDIANA

<u>ITEM</u>	<u>DESCRIPTION</u>
1.	Immediate Removal Request/Action Memorandum May 27, 1986
2.	Conversation Record Favero/Hawvermale June 6, 1986 p.m.
3.	Conversation Record Favero/Hawvermale June 6, 1986 p.m.
4.	Responsible Party Search Memorandum De Vuono June, 1986
5.	Results of April 19, 1986 Sample Analysis and Site Photographs June, 1986

ATTACHMENT 3

POTENTIALLY RESPONSIBLE PARTY LIST
P.R. MALLORY COMPANY SITE
CRAWFORDSVILLE, INDIANA

<u>ENTITY</u>	<u>REGISTERED AGENT</u>
1. Duracell International Clark Daugherty, Chairman Berkshire Industrial Park Bethel, CT 06801	CT: Gregg A. Dwyer Berkshire Industrial Park Bethel, CT 06801
2. Terra - Products, Inc. Jack Canine, President Lebanon Road Crawfordsville, IN 47933	IN: Jack K. Canine Route 2 Crawfordsville, IN 47933